REMARKS/ARGUMENTS

Claims 1 through 19 and 21 through 25 are pending in the instant application. Claims 1 through 7, 9 through 18 and 23 through 25 have been amended to address minor informalities.

The Examiner has rejected claims 1 through 19 and 21 through 25 under 35 U.S.C. 102(e) as being anticipated by Spivey, U.S. Patent No. 6,571,219. The rejection of applicant's claims is respectfully traversed. Reconsideration and favorable action is respectfully solicited in view of the following.

The Examiner has rejected claims 1 through 19 and 21 through 25 under 35 U.S.C. 102(e) as being anticipated by Spivey, U.S. Patent No. 6,571,219. The Examiner, in the instant Official Action, has taken the position that:

> Spivey discloses a method and corresponding system for stock ownership comprising operating a venture capital investment business, establishing a business entity, said business entity establishing an investment fund for venture capital, establishing a fund managing entity of said investment fund, said fund managing entity attending to administrative matters relating to said investment fund and making investment decisions for the fund, said investment fund having investors that provide capital contributions to said fund, said fund managing entity also providing capital contributions to said fund, said fund utilizing said contributions to invest in portfolio entities, said investors receiving a general participation interest in said fund, and said fund managing entity receiving a carried interest in said fund, and providing said investors that have provided at least a threshold capital contribution to said fund with stock rights in said business entity to enable such investors to become shareholders in said business entity (col. 10, line 10 to col. 11, line 35; col. 25, line 1 to col. 71, line 14 - non-limiting example; and fig.1 - all); a business entity securing a portion of IPO shares that become available in portfolio entities, and [the] business entity enabling shareholders

> thereof to purchase ... said portion of IPO shares secured by said business entity that become available in said portfolio entities (col. 10, line 10 to col. 11, line 35); shareholders of said business entity will be entitled to a percentage of said portion of IPO shares that is based on a pro-rata percentage of their stock ownership in said business entity, less any shares allocated otherwise (col. 10, line 10 to col. 11, line 35); an amount of IPO shares that said at least one other fund managing entity is entitled to obtain is based upon the performance of said fund and/or tenure of said at least one other fund managing entity (col. 10, line 10 to col. 11, line 35; col. 25, line 1 to col. 71, line 14; and fig.1 - all) ...

The Examiner continues by asserting that other limitations of applicant's claims may also be found within Spivey, citing other specific passages of Spivey in apparent support of this position.

It is respectfully submitted, however, that, contrary to the Examiner's view, Spivey, U.S. Patent No. 6,571,219, does not relate in any way to an integrated method of operating a venture capital investment business; but, instead, proposes a method for implementing an *employee stock ownership plan* by monitoring performance of an equity-issuing commercial entity *purchasing a predetermined percentage of a commodity used by the commercial entity*, and transferring, under binding call options, an equity interest in the commercial entity, computer-tracking at least one of the contributions and deductible dividends in transit to the *employee stock ownership plan*; and monitoring securitized advances made by a *commodity trust* to the commercial entity to enable the commercial entity to purchase the commodity.

As recognized by those skilled in the art, an initial public offering (IPO) is a company's first sale of stock to the public. Securities offered in an IPO are often, but not always, those of relatively new, small companies seeking *outside* equity capital and a *public* market for their stock. Investors purchasing stock in IPOs

generally must be prepared to accept very large risks for the possibility of large gains. Applicant's invention provides a method for integrating and aligning the interests of the parties involved in driving the growth and development of a robust venture capital business by offering the constituent groups the opportunity to become shareholders in the business entity which is the centerpiece of the integrated enterprise as well as the entity that has secured the right to participate, via rights offerings or directed share subscription programs, in the IPOs of the portfolio companies of the funds which the business entity manages. The invention also broadens access to participation in IPOs which, historically, have been mostly restricted to institutions, high net worth investors and the like.

As noted, applicant's invention is directed to an integrated method of operating a *venture capital investment business*. In one aspect, the method includes the steps of establishing a business entity, the business entity establishing an *investment fund for venture capital*, establishing a fund managing entity of the investment fund, the fund managing entity attending to administrative matters relating to the investment fund and making investment decisions for the fund, the investment fund having capital contributions provided by investors in the fund, the fund managing entity also providing capital contributions to the fund, the fund utilizing the contributions to invest in portfolio entities; the investors receiving a general participation interest in the fund, and the fund managing entity receiving a carried interest in the fund; providing the investors that have provided at least a threshold capital contribution to the fund with stock rights in the business entity to enable such investors to become shareholders in the business entity; *the business entity securing a portion of IPO shares* that become available in the portfolio entities; and *the business entity enabling shareholders thereof to purchase IPO shares among the portion of IPO shares secured by the business entity that become available in the portfolio entities. [Emphasis added].*

It is respectfully submitted that a careful review of Spivey reveals that Spivey is in no way related to the venture capital field, in any sense, or the integration of a central operating entity having a periphery of funds that the entity manages and supports. Moreover, Spivey provides no teaching even remotely related to an integrated venture capital environment by which shareholders of a business entity may participate in the IPOs of portfolio companies of funds that the business entity manages. Instead, Spivey proposes a system that facilitates providing employees with equity in their company as part of an employee stock ownership plan (ESOP) so that employees may acquire an equity ownership interest in the company they work for and the employer/company may obtain equity financing from an internal source; namely, its employees. It is important to note that the use of "commodity funding mechanisms" is unrelated to applicant's invention, as claimed.

It is respectfully submitted that Spivey fails to teach anywhere within its four corners an integrated private equity concern where a financial services business entity is the centerpiece, back office and umbrella for funds that allows its shareholders to participate in the IPOs of fund portfolio companies. Rather, Spivey provides a system for *tracking payroll deductions from employees that make use of vehicles to purchase stock in their employer with minimal or no leverage through debt*. Spivey further proposes forming a commodity trust that agrees to pay for a predetermined percentage of the commodity requirements of the commercial entity for a predetermined period of time. As such, it may be seen that Spivey is wholly unrelated to the field of venture capital and IPOs.

As stated in MPEP §2131, in order to constitute anticipation under the law, a patent or publication must contain within its four corners a sufficient description to enable the person of ordinary skill to make the invention without undue experimentation. All material elements of a claim must be found in one prior art source, a mere suggestion is not enough. Moreover, essential elements are not to

be read into a reference. If a reference does not expressly recite or disclose applicant's claimed invention, as is the case here, then, it is required under principles of inherency that the claimed subject matter be inevitably produced when the teachings of the relied upon reference are followed, in order for a proper case of anticipation to be found. For the reasons suggested above, it is believed that applicant's claimed method is not fairly taught or suggested, and that following the teachings of Spivey could not, under any circumstances, inevitably produce the invention, as claimed.

It is respectfully submitted that Spivey fails to anticipate applicant's claimed invention since nowhere does Spivey teach or suggest each and every limitation of applicant's claimed invention. In view thereof, it is respectfully requested that the grounds for rejection of claims 1 through 19 and 21 through 25 under 35 U.S.C. 102(e) as being anticipated by Spivey, U.S. Patent No. 6,571,219, be removed.

It is respectfully submitted that the present claims are in condition for allowance. Prompt notification of allowance is respectfully solicited.

Respectfully submitted,

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